

**BEFORE THE  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**In the Matter of:**

**SHORT HOP MOVING, INC.,**

**Respondent.**

**Docket No. FMCSA-2008-0243  
(Eastern Service Center)**

**NOTICE**

On April 15, 2010, I issued an Order rejecting a Settlement Agreement submitted by the Field Administrator for the Eastern Service Center, Federal Motor Carrier Safety Administration (FMCSA) (Claimant) on the ground that I had no authority to approve a Settlement Agreement submitted to me after issuance of a Final Agency Order denying Respondent's Petition for Reconsideration.<sup>1</sup> I further stated that Claimant's Notification of Settlement and Motion to Close Docket could not properly be entertained as a *de facto* Petition for Reconsideration under § 386.64(e) of the Rules of Practice and, even if the Settlement Agreement had been timely submitted, it would have been rejected because the negotiated amount of the civil penalty fell below the minimum statutory penalties for the violations involved.

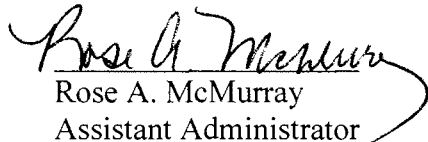
On May 3, 2010, Respondent Short Hop Moving, Inc., served a Petition for Reconsideration and Motion to Modify the April 15, 2010 Order. Respondent claimed that: "Short Hop worked out an agreement in principle before the original ruling denying

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<sup>1</sup> The Final Agency Order was issued on January 7, 2010, and served the following day. Claimant served a Notification of Settlement and Motion to Close Docket on March 24, 2010.

the Petition for Reconsideration. Therefore, although the agreement had not been documented, it did exist prior to the ruling.” Accordingly, Respondent requested that I amend my April 15, 2010 Order and approve the Settlement Agreement.<sup>2</sup>

It should be noted that Respondent’s original Petition for Reconsideration in this matter was served in July 2008, approximately 18 months before the Final Agency Order denying that petition was issued. Therefore, the parties had ample opportunity to commit their “agreement in principle” to writing and submit it to me for approval before the Final Agency Order was issued rather than two and one-half months after issuance. The May 3, 2010 Petition for Reconsideration fails to even address my reasons for rejecting the Settlement Agreement much less demonstrate that they were erroneous. Moreover, the May 3, 2010 petition is, in substance, a *de facto* petition of the January 7, 2010 Final Order. For the reasons stated in my April 15, 2010 Order, such a petition is not permitted under the Rules of Practice. The purpose of this Notice is to advise the parties that Respondent’s May 3, 2010 petition is out of order and is rejected.



Rose A. McMurray  
Assistant Administrator  
Federal Motor Carrier Safety Administration

6.29.10  
Date

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<sup>2</sup> Respondent noted that Claimant does not object to the Petition.

**CERTIFICATE OF SERVICE**

This is to certify that on this 1 day of July, 2010, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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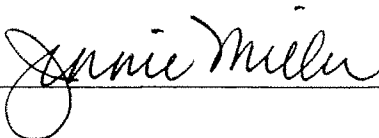
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